

Supreme Court, U. S.
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IN THE
Supreme Court of the United States
OCTOBER TERM, 1977

No. 77-292

UNITED STATES POSTAL SERVICE,
Petitioner

v.

ASSOCIATED THIRD CLASS MAIL USERS,
Respondent

On Petition for a Writ of Certiorari to the United States
Court of Appeals for the District of Columbia Circuit

BRIEF FOR RESPONDENT IN OPPOSITION

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BRIEF FOR RESPONDENT IN OPPOSITION

QUESTION PRESENTED

Whether the United States Postal Service filed a valid request with the Postal Rate Commission on September 18, 1975, for a recommended decision on changes in postal rates.

STATEMENT OF THE CASE

Pursuant to U.S. Sup. Ct. Rule 40(3), the following statement by Associated Third Class Mail Users

("ATCMU") is limited to correction of inaccuracy or omission in the statement of petitioner.

In regard to the Board of Governors meeting on September 4, 1975, petitioner quotes in its brief only selected portions of the minutes.¹ However, as noted below in italics, a significant statement in the minutes was not quoted by petitioner. Since the minutes contain only two short paragraphs on the subject at issue, for the benefit of the Court, we quote the relevant portion of the minutes in its entirety:

"Mr. Nicholson and Mr. Eden joined the meeting and the members discussed the necessity for the Postal Service requesting the Postal Rate Commission for a recommended decision on further changes in postal rates at the earliest practicable time in view of the very substantial financial deficits that the Postal Service would continue to incur unless adjustments were made in the rates approved earlier in the meeting. Without adjustment in those rates, the deficit for FY 76 was estimated to exceed \$2.5 billion."

"Mr. Nicholson pointed out that extensive preparation was necessary to permit a filing of a rate request with the Rate Commission in accordance with the Commission's Rules of Practice, that this preparation had been going on for several months, *that a number of significant adjustments in what had been prepared were necessary in order to bring the filing into line with the guidance contained in the Commission's opinion of August 28 (particularly in regard to cost attributions to the several categories of mail)*, that the process was still incomplete in view of the very recent receipt of the Commission's opinion, but that the general outline of what postal management considered to be appropriate adjustments to the

¹ The full minutes are attached as Appendix E, pp. 100A-103A, to the Postal Service's petition.

various postal rates was now reasonably clear. The Board then reviewed the general magnitude of the increases in revenue which management deemed necessary and appropriate for each of the principal categories of mail and concluded that the Postal Service should complete the process of refining its proposed filing with the Rate Commission and should endeavor to file its request with the Commission by not later than September 19." (Emphasis added.)

The prospect of and necessity for "significant adjustments" still to be made in the "general outline" of rate increases demonstrates why the Board was not apprised of the specific rate increases to be proposed and was not and could not be shown back-up justification for specific rate increases which was essential to having a valid request. As of September 4, 1975, there were no *specific* rate increases available for action by the Board of Governors.

The Bylaws of the Board of Governors (39 CFR Part 3) provide as follows:

"§ 3.9 Delegation of authority by Board.

Pursuant to 39 U.S.C. section 402, the Postmaster General is hereby delegated the authority to exercise the powers of the Postal Service to the extent that such delegation of authority does not conflict with powers reserved to the Governors or the Board by law, these bylaws, or resolutions adopted by the Board." (Emphasis added.)

By Operating Procedures (Resp. App. A, p. 1A) adopted by resolution of the Board of Governors, the Board has negated any delegation of authority relating to requests to the Commission for recommended decisions on rate increases. Under the Operating Procedures, such requests are reserved for decision by the Board of Gov-

ernors. The Operating Procedures thus provide in part as follows:

"Decisions of the Board.

The procedures establish a system under which the Board will make those decisions which by statute the Board, or the presidentially-appointed Governors, are required to make and under which the Board will make such additional decisions and approve such actions recommended by postal management as are of sufficient importance, in the judgment of the Board, to require Board Action.

* * *

"II. Actions Requiring Decision by the Board of Governors.

The following matters are reserved for decision by the Board of Governors:

* * *

- "8. Requests to the Postal Rate Commission for recommended decisions on postal rates and mail classification, and action upon such recommended decisions (by the Governors, 39 U.S.C. § 3625)." (Resp. App. A. p. 3A, 4A)

Thus, Paragraph 8 of the Operating Procedures makes it clear that the request to the Commission for a recommended decision on changes in postal rates is a matter reserved for decision by the Board of Governors.

The Board, on September 4, 1975, approved at most only the general contours of a purported rate request. U.S. Postal Service General News Release dated September 5, 1975, the day after the Board of Governors met, includes the following:

"Postage rates will not increase until after Christmas, Postmaster General Benjamin F. Bailar announced today. Bailar said that the Postal Service will file with the Postal Rate Commission for the new rates 'some time in the next two weeks.'

"If the Commission does not act within 90 days of filing, the Postal Service may increase rates on a 'temporary' basis.

"The exact amounts of the increases to be requested have not been finally determined, but they are expected to include 13-cents for the first ounce of ordinary first-class mail, with appropriate increases for other classes of mail." (Emphasis added.)

Subsequent to the Postal Service's Federal Register notice on October 9, 1975 that it would institute a temporary rate increase (the so-called "13-cent rate") as of December 28, 1975, ATCMU filed an "Objection" with the Postal Rate Commission requesting that the rate proceedings be halted because the Governors had failed to approve the rate request before filing with the Commission. The Commission denied ATCMU's request on October 21, 1975. PRC Order No. 91, Docket No. R76-1. See also PRC Opinion and Recommended Decision, Docket No. R76-1, Vol. 1, p. 4. On October 31, 1975, ATCMU filed its complaint in the United States District Court for the District of Columbia seeking declaratory and injunctive relief, in addition to "[s]uch other and further relief as this Court may deem just and proper." ATCMU specifically requested a judgment "enjoining the USPS from putting into effect temporary rates as presently proposed."² The District Court, in an opinion by Judge John J. Sirica, granted ATCMU's request, ordering

"[t]hat since there is no valid request presently before the Postal Rate Commission for a recommended decision on postal rates, defendants may not legally set or put into effect temporary increases on postal rates until a legal request is made and the other

² In this suit, ATCMU also challenged the authority of the Postal Service to increase fees for special services without going to the Postal Rate Commission. The courts below upheld ATCMU's position that the Postal Rate Commission has jurisdiction over special services. The Postal Service has not sought review of this ruling.

statutory requirements of Chapter 36 of the Act are met."

(Pet. App. D, p. 99A)

The District Court denied the Postal Service's application for a stay on December 18, 1975. However, on December 19, 1975—the same day the Board of Governors met at a special meeting to review the specific rates and fees and to direct the Service to submit a "legal" request to the Commission—the Postal Service filed in the United States Court of Appeals for the District of Columbia Circuit a Motion for a Stay Pending Expedited Appeal of the District Court's judgment. On December 29, 1975, the Court of Appeals granted the Postal Service's motion "only as to that portion of the order of the District Court which relates to rates."³ (Resp. App. B, p. 9A). Immediately thereafter, on December 31, 1975, the Postal Service put into effect the temporary 13-cent rate.

In view of the stay of Judge Sirica's order and the resultant imposition of the temporary rate increase, ATCMU filed a motion on January 2, 1976 for an order by the Court of Appeals

"requiring that proceeds attributable to the challenged postal rate increases be placed in escrow in a special segregated account to be available for payment of refunds in the event this Court affirms the judgment of Judge Sirica."

The Court denied our motion on January 5, 1976. (Resp. App. C, p. 11A).

In its brief, filed February 9, 1976, ATCMU requested the Court of Appeals, if it affirmed Judge Sirica's order,

³ On December 30, 1975, ATCMU filed an Emergency Petition to Mr. Chief Justice Burger for an order vacating the stay granted by the Court of Appeals. This petition was denied.

to fashion relief in regard to the illegally collected temporary rate increases:

"RELIEF REQUESTED

"It is urged (1) that the Court affirm Judge Sirica's order on both issues, and (2) that on the temporary rate issue the Court fashion a remedy for restoring the *status quo* and for giving the public restitution for the temporary rate increases illegally collected since December 31, 1975.

"Refunds of illegally imposed rates in the situation present here are clearly not barred by 39 U.S.C. Sec. 3681. That section bars refunds only in two specific situations not even remotely applicable here. Cf. *Mail Advertising Corporation of America v. United States Postal Service*, 459 F(2d) 1182 (D.C. Cir. 1970).

"In their 'Reply to Appellee's Opposition' document filed in this Court on December 22, 1975, Appellants [the Postal Service] stated as follows in a footnote on page 8:

'We are advised by the Postal Service that allowing the increase to take effect on December 28, and then rescinding that increase should plaintiffs prevail, would pose fewer administrative problems than denying the Government any relief at all.'

"This Court has extensive precedent on judicial participation in fashioning restitution plans following invalid rate increases (transit fares). See, for example, *Democratic Central Committee of the District of Columbia v. Washington Metropolitan Area Transit Commission*, 485 F(2d) 786 at page 823 (D.C. Cir. 1973).

"It is urged that the Court order that all the temporary rate increases be rescinded for the same number of days beginning on December 31, 1975, that such

increases have been illegally collected and further order that increased rates (whether temporary or permanent) may be reimposed, assuming all other legal requirements are met, only after such number of days have expired.

"Thus, for example, if this Court announced its decision on March 8, 1976, the temporary rate increases would have to be rescinded on an early date to be determined by the Court, such as March 14, 1976, and increases (whether temporary or permanent) would have to remain off for 74 days, the number of days between December 31, 1975, and March 14, 1976. This would provide restitution of the illegal increases for all classes of mail and would permit the *status quo* to be restored to the maximum extent practicable."

ATCMU brief at p. 49-50. The Court of Appeals did not discuss this requested relief in its opinion affirming Judge Sirica's order enjoining the implementation of the temporary rates until a legal request is made.

ARGUMENT

The issues presented in the Postal Service's petition do not warrant review by this Court on certiorari.

I

THE CASE IS NOT MOOT

The Petitioner argues that "[r]espondent's claim for declaratory and injunctive relief against the promulgation of the temporary 13-cent rate was moot when the court of appeals issued its decision." Petition, p. 10. First, the Postal Service misstates ATCMU's claim for relief. At the time ATCMU filed its complaint in the District Court, the temporary rate increase was not yet in effect; for this reason, a specific request for declara-

tory and injunctive relief was all that was appropriate. However, a general request for "[s]uch other and further relief as this Court may deem just and proper" was also made by ATCMU in its complaint.

After the Postal Service requested and the Court of Appeals granted a stay of Judge Sirica's order—allowing the imposition of the temporary rate increase—preventive measures no longer sufficed. Consequently, ATCMU requested the Court of Appeals to order the creation of a special segregated account to keep in escrow the postage charges collected by the Postal Service which were attributable to the challenged postal rate increases. The Postal Service opposed this motion and therefore has created its own financial predicament.

As quoted *supra* at p. 7-8, ATCMU specifically requested the Court of Appeals, if it affirmed Judge Sirica's order, to fashion a remedy

"for restoring the *status quo* and for giving the public restitution for the temporary rate increases illegally collected since December 31, 1975."

In other words, if the Court of Appeals found that Judge Sirica's order preventing implementation of the temporary rates in December, 1975 was properly granted, ATCMU requested the Court to correct the inequity caused by the Court's stay of Judge Sirica's order and the required payment by mailers of illegally increased postage rates. One method ATCMU urged the Court to adopt was to rescind the temporary rate increase for the same number of days that the increase was illegally in effect. This suggestion was in accordance with the Postal Service's representation to the Court of Appeals in support of its Motion for a Stay that

"allowing the increase to take effect on December 28, and then rescinding that increase should plain-

tiffs prevail, would pose fewer administrative problems than denying the Government any relief at all."

See p. 7, *supra*.

Although it is true that the Court of Appeals did not speak to ATCMU's request for relief, the important point for purposes of the Postal Service's petition to this Court for certiorari is that ATCMU's request was pending before the Court of Appeals. For this reason alone, the case was *not* moot when the Court of Appeals issued its decision. This conclusion remains true despite the fact that the challenged temporary rates were superseded at the time the Court of Appeals issued its decision in December 1976.

Moreover, for the reasons stated in footnote 107 of the Court of Appeals decision, Pet. App. A, p. 49A, the case was not moot when decided by the Court of Appeals. As stated by the Court of Appeals, it falls under two well settled exceptions to the mootness doctrine: it is within the "voluntary cessation of illegal activity" exception; and, it is within the "capable of repetition yet evading review" exception.

II

THERE IS NO CONFLICT OF DECISION

Petitioner asserts that the decision of the Court of Appeals is inconsistent in principle with this Court's decision in *American Farm Lines v. Black Ball Freight Service*, 397 U.S. 532 (1970). However, petitioner does not allege a conflict on any matter of law or fact, nor does any such conflict exist. This Court listed exceptions to the *American Farm* holding which were cited by the Court of Appeals. In *American Farm*, this Court distinguished cases

"in which an agency required by rule to exercise independent discretion has failed to do so. *Accardi v. Shaughnessy*, 347 U.S. 260;"

397 U.S. at 539. The Court of Appeals, in a long footnote rejecting the Postal Service's similar contention below, stated:

"Since the Board promulgated the rules to govern its proceedings and since those proceedings have substantial public impact, the rules, until properly changed, must be scrupulously observed even if more binding than the Act [Postal Reorganization Act]. See, e.g., . . . *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954);"

Pet. App. A, p. 63A. Thus, a reasonable inference is that the Court of Appeals concluded that the Board was required "to exercise independent discretion and failed to do so."

Moreover, the Court of Appeals continued its statement demonstrating that there is no conflict in principle either:

"Indeed, appellees argue with some persuasiveness that public policy and the Act itself, quite apart from any rules of practice adopted by the Board, mandate the Board's thorough involvement in the process of submitting rate requests and thus by their own force would require reversal of the Board's action in approving management's tentative proposal since that proposal included only the 'general magnitude' of increases to be recommended to the Commission.

* The Court of Appeals also cited *Vitarelli v. Seaton*, 359 U.S. 535 (1959) in this footnote. Pet. App. A, p. 63A. In *American Farm*, this Court also cited *Vitarelli* as an example of another exception when the rules were intended

"primarily to confer important procedural benefits upon individuals in the face of otherwise unfettered discretion as in *Vitarelli v. Seaton*, 359 U.S. 535;"

397 U.S. at 538-39.

They note that the Governors (who predominate on the Board), unlike the Commission, are 'chosen to represent the public interest generally,' 39 U.S.C. § 202(a), and that it is far from settled whether the Postal Service must provide a hearing prior to implementation of temporary rates, *see Mail Advertising Corp. of America v. USPS*, 148 U.S.App.D.C. 158, 159, 459 F.2d 1182, 1183 (1972). They conclude from this that the Act therefore requires intimate Board involvement in the request submission process as the only practicable avenue for public input into the important function of setting temporary rates, basing this conclusion on three primary considerations: (1) that it is the Board 'which exercises the power of the Postal Service to set temporary rates,' *id.*; (2) that it is the request for new permanent rates which in practical and legal effect 'sets' temporary rates, *see* 39 U.S.C. § 3641; and (3) that at least under present circumstances 'temporary' rates are vitally significant since they have been in effect for a longer period of time than their supposedly 'permanent' counterparts. Because the Postal Service's action was in violation of its governing rules of practice, however, we need not reach this issue and therefore express no final determination of it."

Pet. App. pp. 63A-64A. For these reasons, the Board's violation of its own operating procedures *cannot* be characterized as "merely technical", Petition, p. 16, and the prejudice to the public interest, including the interest of ATCMU and its members, is apparent.

III

THE DECISION BELOW IS CLEARLY CORRECT

The decision below is clearly correct in holding that the Governors violated the operating procedures, Resp. App. A, p. 1A. The Court of Appeals opinion and Judge

Sirica's opinion, Pet. App. A, pp. 56A-65A; Pet. App. D, pp. 84A-92A, have in no way been rebutted or weakened by petitioner. Therefore, the opinions need no further elaboration.

IV

THERE IS NO IMPORTANT ISSUE AS A BASIS FOR GRANTING CERTIORARI

Petitioner claims that "significant collateral legal consequences", Petition, p. 10, 11, provide a basis for this Court to grant certiorari. But the only issue which the Postal Service raises is the *potential possibility* of the occurrence of a *future event*. The Postal Service states:

It is our understanding that certain mailers may file suit seeking refunds or other relief with respect to these rates.

Petition, p. 10. There is no citation to any pending litigation. There is no citation that any mailers have sought refunds through administrative channels. If petitioner made such uncertain allegations in a complaint, they certainly would be judged not yet ripe for adjudication. *O'Shea v. Littleton*, 414 U.S. 488 (1974).

In an effort to correct what it surely recognizes as a deficiency in its petition, the Postal Service estimates that \$500 million more revenue was generated by the temporary rates held invalid by the Court of Appeals.⁵ Presumably, the Postal Service hopes this Court will look upon \$500 million, a large amount of money, as a persuasive factor in granting certiorari. Although \$500 million is less than four percent of the total income of the Postal Service for fiscal year 1976,⁶ we also believe

⁵ No estimate is offered by Petitioner as to what portion of this amount might include records of payment sufficient to support refund claims.

⁶ Annual Report of the Postmaster General, Fiscal 1976 & Transition Quarter, p. 29.

that \$500 million is a large amount of money. It is for this reason, in addition to the reasons previously stated, that the Court of Appeals decision is correct in holding that the information presented at the Board of Governors September 4 meeting fell substantially short of meeting the requirements for the Board's consideration of and action on a rate increase request.

Furthermore, the fact that a large amount of money is involved—though \$500 million is not large percentage wise for the Postal Service—should not be sufficient *by itself* for this Court to grant certiorari, especially in view of the in-depth consideration of the issues by both the Court of Appeals and the District Court, both of which upheld ATCMU.

CONCLUSION

For the foregoing reasons it is respectfully submitted that this petition for a writ of certiorari should be denied.

Alternatively, if certiorari is granted, ATCMU respectfully requests this Court to order this case remanded to Judge Sirica in the District Court for the limited purpose of fashioning a remedy to overcome the effect of the granting of the stay of the District Court injunction by the Court of Appeals.

Respectfully submitted,

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September 19, 1977

APPENDICES

1A

APPENDIX A

BOARD OF GOVERNORS
OF THE
UNITED STATES POSTAL SERVICE

OPERATING PROCEDURES

December

1971

1. *Introduction*

The United States Postal Service is an independent establishment created by Act of Congress to be operated as a "basic and fundamental service" under management that is expected to be "honest, efficient, and economical." The Postal Service is charged by law with responsibility for providing prompt, reliable and efficient postal services throughout the nation, and its statutory charter, the Postal Reorganization Act, clothes the Postal Service with extensive powers intended to enable it to carry out its responsibilities effectively and economically.

The exercise of these powers is directed by the Board of Governors of the Postal Service, consisting of nine private citizens chosen by the President to represent the public interest generally, together with the Postmaster General and Deputy Postmaster General. The Board of Governors directs and controls the expenditures of the Postal Service, reviews its practices and policies, and establishes basic objectives and long-range goals in consonance with the provisions of the Postal Reorganization Act.

As authorized by law, and in keeping with the Board's conception of how the public interest may best be served, authority to conduct the operations of the Postal Service has been delegated to the Postmaster General. The procedures set forth herein represent the framework of the system through which the Board of Governors monitors the exercise of the authority it has delegated, measures progress toward the goals it has set, and shapes the policies by which the future development of the Postal Service will be guided.

The procedures are intended to insure that significant information on developments meriting attention by the Board is brought before the Board in a timely manner, as well as insuring that the Board obtains the data it

needs as a predicate for final determination of the level of costs to be incurred by the Postal Service, for action on recommendations by the Postal Rate Commission, and for other decisions to be made by the Board.

Decisions of the Board

The Procedures establish a system under which the Board will make those decisions which by statute the Board, or the presidentially-appointed Governors, are required to make and under which the Board will make such additional decisions and approve such actions recommended by postal management as are of sufficient importance, in the judgment of the Board, to require Board action.

Review by the Board

The Procedures establish a review process intended to permit the Board to control and be fully informed about:

- how the Postal Service is operating*—requiring a quantitative analysis; and
- how well the Postal Service is operating*—requiring a qualitative analysis.

Information will be provided principally by statistical data to be made available before—and to be reviewed at—each regular meeting of the Board and by a systematic review of the principal programs affecting operations and quality of performance. In addition, miscellaneous information of an important character will be presented to the Board, when and as appropriate, in accordance with guidelines intended to assure that no subject requiring Board attention will fail to be brought before the Board.

II. Actions Requiring Decision by the Board of Governors

The following matters are reserved for decision by the Board of Governors:

4A

1. Selection, compensation, and removal of the Postmaster General (by the Governors, in accordance with 39 U.S.C. § 202(c)).
2. Selection, compensation, and removal of the Deputy Postmaster General (by the Governors and the Postmaster General, 39 U.S.C. § 202(d)).
3. Selection of the Chairman of the Board of Governors, (by the Governors, 39 U.S.C. § 202(a)) and the Secretary of the Board.
4. Adoption of the bylaws of the Board and amendments thereto.
5. Approval of the annual Postal Service Budget, in both tentative and final form, including requests for Congressional appropriations.
6. Approval of the Postal Service's five year plans and capital investment plans, including specific approval of each capital investment project (other than those included in the bulk mail network as of the date of adoption of these procedures) exceeding ten million dollars. Operating plans and reprogramming actions will be reviewed by the Board as outlined in section III below, and the Board shall receive quarterly reports on capital investment projects undertaken during the preceding quarter without specific Board approval.
7. Approval of the budget of the Postal Rate Commission or adjustments thereto (by the Governors, 39 U.S.C. 3604(c)).
8. Requests to the Postal Rate Commission for recommended decisions on postal rates and mail classification, and action upon such recommended decisions (by the Governors, 39 U.S.C. § 3625).
9. Requests to the Postal Rate Commission for advisory opinions on proposed changes in the nature of postal

5A

services generally affecting service on a nationwide or substantially nationwide basis.

10. Any exercise of the authority of the Postal Service to borrow money under 39 U.S.C. § 2005, exclusive of short-term "line-of-credit" borrowings and purchase money obligations assumed in the normal course of business (which shall be reviewed by the Board as outlined in section III below.) The Board shall determine the terms and conditions of each issue of obligations by the Postal Service, the time and manner of sale, and the underwriting arrangements with respect thereto, and no action to require the Secretary of the Treasury to purchase Postal Service obligations under 39 U.S.C. § 2006(b) or to request the Secretary of the Treasury to pledge the full faith and credit of the Government of the United States under 39 U.S.C. § 2006(c) shall be taken without authorization by the Board.
11. The number of Assistant Postmasters General (including Senior Assistant Postmasters General) and Regional Postmasters General.
12. Compensation of officers and executives in PES Grade 23 and above.
13. Selection of an independent, certified public accounting firm under 39 U.S.C. § 2008(e).
14. Adoption of the annual report under 39 U.S.C. § 2402.
15. All other matters that the Board may consider appropriate for decision by the Board.

III. *Matters to be Reviewed by the Board of Governors.*

The Board will monitor the operations and performance of the Postal Service through statistical reports, program reviews, and specialized reports, as follows:

A. Statistical Reports

Prior to each regular meeting, the Board will be furnished reports, primarily of a statistical nature, aimed at presenting an overview of postal operations and performance during the most recent accounting period or periods for which data are available.

1. *Operating Results.* Through detailed Summaries of Financial and Operating Statements of the Postal Service for each accounting period, the Board will be informed of the amount of activity during the accounting period and during the year to date—in relation to comparable prior year figures and in relation to the operating plan adopted under the budget—categorized as follows:

Income (revenue, further categorized by principal mail classifications; subsidy; and reimbursements).

Expenditures (by function and by organizational unit).

In addition, balance sheet information will be provided for each accounting period.

2. *Performance Data.* Management will supply the following data no less frequently than every quarter:

Service performance measurement, categorized by particular classes and types of mail and showing delivery times within representative mileage categories.

Employee productivity measurement, reflecting data on employment levels (paid hours) and mail volume.

B. Program Review

1. *The Operating Program.* The Board will review, and approve as appropriate, all aspects of the Postal Service budget plan, including:

- (a) the tentative annual budget submitted to the Office of Management and Budget in the early fall of each year; the final budget approved in December or January; amendments to the budget; five-year, operating and capital investment plans;
- (b) the annual operating and capital investment plans and significant departures from estimates upon which the plans were based;
- (c) the need for rate increases or decreases and the progress of any pending rate cases or litigation relating thereto;
- (d) subsidy needs and the progress of appropriations legislation pending in the Congress; and
- (e) debt financing needs, including a review of all borrowings of the Postal Service from the United States Treasury and from private sources.

2. *The Performance Programs.* Major programs for improving postal service or reducing the cost of postal operations will be reviewed by the Board on a regular basis.

C. Specialized Reports

1. *Personnel Matters.* Management will bring to the Board's attention major developments in the personnel area, including matters involving collective bargaining, equal employment opportunity, career development and training, grade and

salary structures, and related programs for non-bargaining unit employees.

2. *Other Matters of Special Importance.* Management will keep the Board advised of important initiatives in the research and development area; consultations with the Postal Service Advisory Council; major changes in the organizational structure of the Postal Service; major litigation and law enforcement activities; and other matters having a significant impact upon the relationship of the Postal Service with its employees, with any major branch of the Government, or with the general public.

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

September Term, 1975

Civil Action 75-1809

No. 75-2227

ASSOCIATED THIRD CLASS MAIL USERS
NATIONAL EASTER SEAL SOCIETY FOR
CRIPPLED CHILDREN AND ADULTS

v.

UNITED STATES POSTAL SERVICE,
Appellant

POSTAL RATE COMMISSION, et al.

No. 75-2228

ASSOCIATED THIRD CLASS MAIL USERS
NATIONAL EASTER SEAL SOCIETY FOR
CRIPPLED CHILDREN AND ADULTS

v.

UNITED STATES POSTAL SERVICE
POSTAL RATE COMMISSION, et al.,
Appellants

Before: Bazelon, Chief Judge; Robinson and MacKinnon, Circuit Judges.

10A

ORDER

On consideration of appellants' motion for stay and for partial summary reversal and of the responses thereto, it is

ORDERED by the Court that the motion for partial summary reversal is denied, and it is

FURTHER ORDERED by the Court that appellants' motion for stay is granted only as to that portion of the order of the District Court which relates to rates.

Per Curiam

11A

APPENDIX C

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

September Term, 1975

Civil Action #75-1809

No. 75-2227

ASSOCIATED THIRD CLASS MAIL USERS
NATIONAL EASTER SEAL SOCIETY FOR
CRIPPLED CHILDREN AND ADULTS

v.

UNITED STATES POSTAL SERVICE,
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POSTAL RATE COMMISSION, et al.

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ASSOCIATED THIRD CLASS MAIL USERS
NATIONAL EASTER SEAL SOCIETY FOR
CRIPPLED CHILDREN AND ADULTS

v.

UNITED STATES POSTAL SERVICE
POSTAL RATE COMMISSION, et al.,
Appellants

BEFORE: Bazelon, Chief Judge; Robinson and Mac-
Kinnon, Circuit Judges

12A

ORDER

On consideration of appellee's (Associated Third Class Mail Users) motion for order requiring that proceeds from rate increases be held in escrow in special segregated account, and withdrawal, etc., it is

ORDERED by the Court that appellee's aforesaid motion is denied and the withdrawal is noted.

Per Curiam